

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

**GREENBRIER HOTEL CORPORATION;
JAMES C. JUSTICE COMPANIES, INC.;
TWIN FIR ESTATES, LLC; WILCOX
INDUSTRIES, INC.; JUSTICE LOW SEAM
MINING, INC.; PLAYERS CLUB, LLC;
JUSTICE FAMILY GROUP, LLC;
GREENBRIER MEDICAL INSTITUTE, LLC;
GREENBRIER GOLF & TENNIS CLUB
CORPORATION; THE GREENBRIER
SPORTING CLUB DEVELOPMENT CO., INC.;
THE GREENBRIER SPORTING CLUB, INC.;
TAMS MANAGEMENT, INC.; BELLWOOD
CORPORATION; OAKHURST CLUB, LLC;
JAMES C. JUSTICE, II; CATHY L. JUSTICE;
and JAMES C. JUSTICE, III,**

Plaintiffs,

v.

Case No. 05:23-cv-00731

**CARTER BANK & TRUST; CARTER
BANKSHARES, INC.; LITZ H. VAN DYKE;
PHYLLIS Q. KARAVATAKIS; MICHAEL R.
BIRD; KEVIN S. BLOOMFIELD; ROBERT
BOLTON; GREGORY W. FELDMANN;
JAMES W. HASKINS; JACOB A. LUTZ, III; E.
WARREN MATTHEWS; CATHARINE L.
MIDKIFF; CURTIS E. STEPHENS; and
ELIZABETH LESTER WALSH,**

Defendants.

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR LEAVE
TO FILE FIRST AMENDED COMPLAINT**

Only a short rejoinder is necessary to effectively reply to Defendants' response [Doc. 36]
opposing Plaintiffs' motion for leave to file their First Amended Complaint:

1. Plaintiffs' motion [Doc. 33] was neither subjectively nor objectively filed in bad faith. The filing has nothing to do with any remaining motion practice or decision concerning personal jurisdiction, venue, or provisional sealing of the original Complaint, with respect to which the Court imposed the stay. Defendants seem to suggest that the Court's January 17, 2024 Order [Doc. 32] stayed all proceedings, which it did not.

2. The motion and the First Amended Complaint must inevitably be considered either by this Court or in the proposed transferee venue. Efficiency is served by placing those materials in the record sooner rather than later. Plaintiffs are not seeking immediate action on the motion, which, now having been fully briefed by the parties, the Court may consider at the appropriate time.

3. The Indemnification Agreement's venue and forum provisions, *see* Def. Resp. at 6, are not implicated.* Plaintiffs are not seeking construction or enforcement of the Indemnification Agreement. Nor does this proceeding arise out of or relate to the Agreement. Rather, Plaintiffs merely seek a declaration that the Agreement — however it might otherwise have been construed or enforced — has been rendered void, not because of how it eventually might be triggered and applied, but as a collateral consequence of Defendants' extant misconduct substantively detailed throughout the unredacted First Amended Complaint [Doc. 34-1].

Plaintiffs thus reiterate their request that the Court: (i) grant their Motion; (ii) accept the First Amended Complaint for filing under seal; and (iii) afford them such other and further relief as may be appropriate.

* Plaintiffs beg the Court's indulgence in replying to the fresh assertions Defendants have raised regarding the proper venue of the underlying matter, the mention of which appear to have been foreclosed by the stay Order.

DATED: March 6, 2024

Respectfully submitted,

GREENBRIER HOTEL CORPORATION
JAMES C. JUSTICE COMPANIES, INC.
TWIN FIR ESTATES, LLC
WILCOX INDUSTRIES, INC.
JUSTICE LOW SEAM MINING, INC.
PLAYERS CLUB, LLC
JUSTICE FAMILY GROUP, LLC
GREENBRIER MEDICAL INSTITUTE, LLC
GREENBRIER GOLF & TENNIS CLUB CORPORATION
THE GREENBRIER SPORTING CLUB DEVELOPMENT CO., INC.
THE GREENBRIER SPORTING CLUB, INC.
TAMS MANAGEMENT, INC.
BELLWOOD CORPORATION
OAKHURST CLUB, LLC
JAMES C. JUSTICE, II
CATHY L. JUSTICE
JAMES C. JUSTICE, III

By Counsel:

/s/ Steven R. Ruby

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on March 6, 2024, the foregoing ***Plaintiffs'*** ***Reply in Support of Motion for Leave to File First Amended Complaint*** was served electronically through the Court's CM/ECF system, providing notice of the filing to counsel of record.

/s/ Steven R. Ruby

Steven R. Ruby (WVSB #10752)